

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/275,495 03/24/99 GARTSTEIN

V 7081M

EXAMINER

027752 IM52/0515
THE PROCTER & GAMBLE COMPANY
PATENT DIVISION
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MERCADO, J

ART UNIT

PAPER NUMBER

1745

DATE MAILED:

05/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/275,495

Applicant(s)
Gartstein et al.

Examiner
Julian A Mercad

Art Unit
1745



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Mar 2, 2001

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-27 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-27 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other:

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DETAILED ACTION

Remarks

1. This Office Action is responsive to Applicant's amendment filed March 2, 2001.
The objection to the drawings under 37 CFR 1.83(a) has been withdrawn.
The rejection of claim 13 under 35 U.S.C. 112, first paragraph has been withdrawn.
The rejection of claims 6, 8, 11, and 12-23 under 35 U.S.C. 112, second paragraph has been withdrawn. The examiner notes that claim 12 was mistakenly rejected for antecedent deficiencies later realized by the examiner to be in claim 22. Applicant appears to have understood the ground of rejection nonetheless and has amended claim 22 accordingly.

The rejection of claims 1-7 and 24-27 under 35 U.S.C. 102(e) based on Nagai *et al* has been withdrawn.

The rejection of claims 12, 14 and 23 under 35 U.S.C. 102(b) based on Stewart has been withdrawn.

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Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-7 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai *et al.*

Nagai has been discussed extensively in the previous Office Action under 35 U.S.C. 102(e). The rejection is maintained for the reasons of record. With respect to Applicant's amendment, Nagai is asserted to teach or at least suggest to the skilled artisan the instant limitations for the reasons to follow.

The amendment to the claims now require the controller to have a common ground with the negative electrode. The container is also further limited to have a ground with the negative terminal, with the negative terminal itself further having a common ground with the controller and negative electrode of the cell. Essentially therefore, the controller, negative electrode, container and negative terminal are now recited to have a common ground. This feature is believed to be obvious at least to one of ordinary skill in the art. A battery, such as e.g. an alkaline battery or a lithium battery, is known to have the container or casing of the battery function as the negative terminal. Thus, in view of Nagai and specifically with respect to Figure 2, the battery [11] is in common ground with the controller [12]. As to a common ground, this term is given its broadest reasonable interpretation as any point or node in the electrical circuit that is shared by two or more components, e.g. the controller, negative electrode, container and negative terminal. The skilled artisan would find obvious that the resistance along the wires between the battery and controller is minimal or at least desired to be of a small magnitude, thus any point along the electrical circuit can be considered a common ground.

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4. Claims 12, 14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart.

Stewart has been discussed extensively in the previous Office Action under 35 U.S.C. 102(b). The rejection is maintained for the reasons of record. Stewart is asserted to teach or at least suggest the claimed invention as applied for a multiple-cell battery. With respect to Applicant's amendment, Stewart is asserted to teach or at least suggest to the skilled artisan the instant limitations for similar reasons discussed above for Nagai.

As discussed above, the feature of the controller, negative electrode, container and negative terminal now having a common ground is believed to be obvious at least to one of ordinary skill in the art. The skilled artisan would find obvious that any point along the electrical circuit can be considered a common ground. Such a feature would naturally flow from the configuration shown by Stewart in Figure 1, as the components of the battery required to be in common ground all share a common wiring configuration.

5. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagai *et al* as applied for claims 1-7 and 24-27 above, in view of Stewart as applied for claims 12, 14 and 23 above.

The rejection is maintained for the reasons of record. The examiner notes that Applicant has not provided specific arguments against this ground of rejection.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart as applied for claims 12, 14 and 23 above, in view of Shambaugh *et al* (U.S. Pat. 4,418,127).

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The rejection is maintained for the reasons of record. The examiner notes that Applicant has not provided specific arguments against this ground of rejection.

7. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart as applied for claims 12, 14 and 23 above, in view of Nagai *et al* as applied for claims 1-7 and 24-27 above.

The rejection is maintained for the reasons of record. The examiner notes that Applicant has not provided specific arguments against this ground of rejection.

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Applicant's arguments have been fully considered but are not persuasive.

Applicant submits that the claimed invention provides the advantage of a simple circuit or use of a DC/DC converter or charge pump. However, this argument is not persuasive as these features are not found recited in the claims.

Applicant submits that the claimed invention, in reciting use for both primary and secondary batteries, further separates from Nagai which is allegedly limited to rechargeable, i.e. secondary batteries. However, the examiner notes that the instant claims recite "either" a primary or secondary battery, not "both". Thus, Nagai is fully applicable within the present scope of the claims in teaching the latter embodiment for use in a secondary battery.

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Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian A. Mercado whose telephone number is (703) 305-0511.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette, can be reached at (703) 308-0756. The official fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

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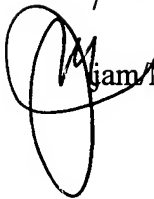
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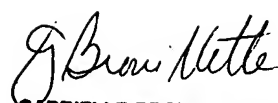
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 May 11, 2001


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